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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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|-----------------|-------------|----------------------|---------------------|------------------|

09/815,454

03/22/2001

Viyyakaran Raman Ramachandran

6647-20

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06/09/2006

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EXAMINER

JUNG, DAVID YIUK

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/815,454 | RAMACHANDRAN ET AL. | |
| | Examiner | Art Unit | |
| | David Y. Jung | 2134 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

CLAIMS PRESENTED

Claims 1-46 are presented.

Response to Arguments

Applicant's arguments as filed have been fully considered but they are deemed insufficient to be persuasive at the moment.

Among the arguments presented in the Pre-Appeal Conference, the most persuasive argument is that the prior art may not have described Windows 2000 at the time of the actual release. The Office believes that Applicant has analyzed and broken down this argument into several sub-arguments.

1. Applicant has asserted that the relied prior art cannot be considered valid prior art. This is not persuasive because the Office cited the prior art as a teaching regarding the Windows 2000 rather than the prior art being published in the year 2000.

2. Applicant has asserted that the author (of the prior art) may not have intended to discuss the Windows 2000 as of the first release. The Office cannot find Applicant to be persuasive on this matter because the author did not mention that his discussion was meant to be for only some of the releases; one would surely expect an author to have noted more than one release if the author was aware of the critical differences between the releases.

3. Applicant has asserted that the features of Windows 2000 may not have been actually known to others as an actual feature until after the first release. This may

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be persuasive. Applicant is requested to file an appropriate affidavit stating that this is true.

Thus, the claims may be allowable depending on the content of that affidavit.

Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter: If Applicant is correct (and is willing to provide an appropriate affidavit) regarding the date of knowledge of the features of Windows 2000, then the relied prior art is either wrong (as to the date of the features of Windows 2000) or the relied prior art must be re-interpreted to be intending to discuss the features of Windows 2000 at a later date. As no other prior art of record teaches the claimed subject matter, the claims would be allowed.

CLAIM REJECTIONS

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-46 are rejected under 35 U.S.C. 103(a) as being unpatentable as stated in the previous Office Action.

Conclusion

The art made of record and not relied upon is considered pertinent to applicant's disclosure. The art disclosed general background.

Points of Contact

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-3836 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Jung whose telephone number is (571) 272-3836 or Jacques Louis-Jacques whose telephone number is (571) 272-6962.

David Jung

Patent Examiner

A handwritten signature in black ink, consisting of a stylized 'D' followed by a long horizontal stroke that curves upwards at the end.

6/6/06